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Human rights situations that require the Council's attention

Written statement* submitted by International Educational Development, Inc., non-governmental organizations on the roster

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Continuing actions against the Hmong people in the Lao People's Democratic Republic*

International Educational Development, Inc. and the Association of Humanitarian Lawyers have been concerned for some time about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). To that end, we have submitted a number of written statements and urgent action appeals, including to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities. The situation invokes the "Responsibility to Protect (R2P) principles -- the Hmong people are at risk of extermination. Given both the history of the Hmong people and their more than 40-year-long grave situation, they have the right to self-determination as the only way to realize their basic human rights.

The Hmong people, especially those now in the Phou Bia area, continue to face constant military actions against them as they are still considered enemies of the State. As a consequence they are forced to relocate and hide on a continual basis. Food and medicine are in short supply as the Laotian authorities have continued to block these items Because of the constant moving there are no stable places of residence and even temporary structures are destroyed by the Lao forces. Agriculture is difficult if not impossible, compounding the serious food shortages due to the blockades and to the fact that when the Lao forces find fruit trees or crops they destroy them. This is a crime against humanity as set out in Article 7 (1)(b) and (2)(b) of the Rome Statute that identify creating conditions of life that are extremely difficult and the denial of food and medicine as elements of the crime of extermination.1 This supports our view that the Laotian authorities are hoping to essentially eliminate the Hmong people before there is any international action.

In exercising the right of reply following our statements at earlier sessions of the Council, the Laotian representative stated that under Laotian law, all groups enjoy the same basic rights, and all live in harmony. While that may be true for other ethnic groups in the country, it is definitely not true for the Hmong people—as we have shown in our submissions, they have been subjected to genocidal conditions since the end of the Vietnam War. At present their numbers are catastrophically reduced.

As an interim measure before the Hmong people are granted their right to self-determination, we believe it is imperative for the international community to act forthwith and establish a special protected area guarded by international actors in the Hmong traditional area. This type of "safe haven" would allow the surviving Hmong people to congregate, to receive humanitarian aid and to communicate with the outside world unfettered by the Laotian authorities. The safe haven should be located near an international border to facilitate entrance and egress of interested parties such as humanitarian aid workers, the media and, of course, relatives. Failure to establish such an area is likely to encourage the Laotian authorities to continue their hostile actions against the surviving Hmong.

As we indicated in our oral statement in September 2016, the United States government pledged money to help clean up the unexploded ordnance left over from the Vietnam War. A United States representative visited in December 2016, but was not allowed into the Hmong area – where much of the unexploded ordnance is located. With a new American president as of January 2017 we are uncertain if any additional action will be taken on this issue and we fear the Laotian authorities will use the unexploded ordnance project to the detriment of the Hmong peoples. The international community should also address this situation.

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their genocidal situation. Laos has to date not allowed on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions and we hope that the Council, the General Assembly or

1 The Lao People's Democratic Republic has not ratified the Rome Statue or Regulations, but we refer to its previsions to underscore the gravity of the offenses by the authorities against the Hmong people.

the Security Council take affirmative action, which to date has not occurred. The UPR process served to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

As a result of the urgency of this situation, we recommend that the following actions be undertaken:

1. The High Commissioner should undertake to establish a safe haven for the Hmong people as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
2. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible due to the genocidal situation and should recognize the right to self-determination of the Hmong people.
3. The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the issue of unexploded ordnance in the Hmong areas.
4. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should request on site visits to the Hmong areas in Laos, either alone or in concert.
5. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action, including establishing a commission of inquiry as has been established in other situations. In the alternative, the Council should establish its own commission of inquiry or appoint a special rapporteur or independent expert.

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*Association of Humanitarian Lawyers, NGO without consultative status, also shares the views expressed in this statement.